



Mary Hubler

State Representative

Hubler Testimony on Assembly Bill 243

Delaying the implementation date of the comprehensive planning statute for certain local governments

**Assembly Committee on Urban and Local Affairs
November 17, 2009**

Thank you for receiving my testimony on AB 243, which would grant an extension for implementing the Comprehensive Planning law under limited conditions.

As you know, the deadline for municipal governments to adopt comprehensive plans is approaching very quickly. By January 1, the actions of local governments regarding mapping, subdivision regulation and zoning ordinances are to be consistent with an adopted comprehensive plan.

The creation and adoption of comprehensive plans by some communities has not been undertaken in a timely fashion for a variety of reasons, including lack of access to planners or grants to hire them.

This law would grant these communities two more years to adopt a comprehensive plan if the local governments pass resolutions committing to enacting a comprehensive plan to take effect on or before January 1, 2012. Under the bill as drafted, these local governments would be required to pass resolutions by December 31 of this year.

Those governmental units that have received grants from the Department of Administration but have not adopted their plans would not be granted the extension.

My understanding is that Senator Kreitlow will produce a bill that will create a more firm definition of "consistency" as it applies to the consistency clause and clarifies those things that must be consistent with the comprehensive plan. I support the aims of the Senator's pending bill.

I believe it is important to move AB 243 bill into law soon, however, to avoid the possibility of a number of communities being immediately in violation without an adequate opportunity to comply.

I worked with the Towns Association to produce this bill, not in an effort to blunt or negate the effect of the comprehensive planning law but to enable all communities to avail themselves of the best available assistance in adopting these plans.

Thank you for your consideration of AB 243.



JOHN P. STEINBRINK

STATE REPRESENTATIVE ■ SIXTY-FIFTH ASSEMBLY DISTRICT

STATEMENT ON AB 243 AND COMPREHENSIVE PLANNING DEADLINE

TO URBAN AND LOCAL AFFAIRS COMMITTEE – 11/17/09

I want to thank Chair Berceau and the committee for considering AB 243 and Kenosha County's request for flexibility in meeting the upcoming deadline for implementation of state comprehensive planning requirements.

At a time of tight local budgets during an economic downturn that calls for increased services at the county and municipal level local governments in our area are facing significant and legitimate challenges in meeting the deadline. Unfortunately, contrary to the intent of the original Smart Growth legislation the result of deadlines that cannot be met could be reduced planning and zoning conditions.

Rep. Barca and I have prepared language that, if acceptable, can help Kenosha County and others. We would appreciate the committee's consideration of this or more comprehensive changes that could help responsible local governments if the opportunity for legislative action arises prior to our scheduled return next year.

I am sorry I was not able to be in Madison for today's hearing but hope to have the opportunity to work with the committee and groups committed to effective comprehensive planning to ensure that Kenosha County and other good actors are able to meet Smart Growth goals.



American Planning Association
Wisconsin Chapter

Making Great Communities Happen

Brian W. Ohm, JD
Vice-President of Chapter Affairs
c/o Dept. of Urban & Regional Planning, UW-Madison
925 Bascom Mall
Madison, WI 53706
bwohm@wisc.edu

November 17, 2009

Rep. Terese Berceau
Room 208 North
State Capitol
P.O. Box 8952
Madison, WI 53708

RE: AB 243

Dear Rep. Berceau:

I am writing on behalf of the Wisconsin Chapter of the American Planning Association. While the Chapter generally supports the idea of providing a limited extension of the consistency requirement under the 1999 comprehensive planning law, the Chapter has the following concerns related to the current draft of AB 243:

1. **The current language of AB 243 unfairly omits those local governments that received grants in the last 2 years but will not finish those plans by January 1, 2010.** Preparing a comprehensive plan for a community is often a multi-year process. Those communities that received comprehensive planning grants from the state in the last two years should also receive an extension if they will not be able to finish by January 1, 2010.

2. **The following language should be changed to avoid confusion:**

Line 23, page 3, the word should be "adopted" not "enacted"

Line 2, page 4, the word should be "adopt" not "enact".

Section 66.1001(4) of the Wisconsin Statutes outlines the "procedures for *adopting* comprehensive plans" (emphasis added). The above referenced language in AB 243 should be changed to be consistent with existing Wisconsin law.

3. **"Consistency" needs to be clarified.** Part of the reason for this bill is the confusion over the "consistency" requirement of the law. That requirement should be clarified as part of this bill and the Wisconsin Chapter of the American Planning Association is willing to offer suggested clarification language.

Thank you for your time.

Very truly yours,

Brian W. Ohm

Brian W. Ohm
Vice President – Chapter Affairs



Memorandum

To: Members, Assembly Urban and Local Affairs Committee
From: Tom Larson, Director of Regulatory and Legislative Affairs
Date: November 17, 2009
Re: AB 243 – Delaying the implementation date of the comprehensive planning law

The Wisconsin REALTORS® Association (WRA) encourages the Committee not to advance AB 243 without addressing other key issues related to the implementation of Wisconsin's Comprehensive Planning Law.

Along with other key stakeholders and original drafters of Wisconsin's Comprehensive Planning Law, the WRA has been working on legislation to address several areas of the law that have created confusion for local governments and others affected by comprehensive planning. Some of these issues have arisen due to the way in which the law was drafted, while other issues were identified but not resolved when the law was originally enacted. However, all of the issues must be resolved in order for the law and local comprehensive plans to be implemented successfully. The issues that must be addressed are as follows:

1. **Towns without village powers:** Modify the comprehensive planning law to enable, but not require, towns without village powers to adopt comprehensive plans. Because towns without village powers do not have zoning or subdivision ordinances, there would be no consistency requirement applicable to these comprehensive plans.
2. **Clarify that comprehensive plans are advisory** – Clarify comprehensive plans are advisory in nature and do not create regulatory requirements independent from other requirements. Some confusion has resulted by the fact that comprehensive plans must be adopted by ordinance and that zoning regulations have to be consistent with comprehensive plans.
3. **Define "consistency"** – Under the law, all zoning and subdivision regulations must be consistent with a comprehensive plan. However, "consistency" is not defined. As a result, considerable litigation will likely occur to define the meaning of the consistency, which will create tremendous uncertainty for local communities and property owners trying to use their property in accordance with the comprehensive plan.
4. **Clarify what must be consistent with the comprehensive plan** – Under current law, confusion exists as to what actions must be consistent with the comprehensive plan and with which parts of the plan these actions must be

consistent. For example, if a community makes a zoning change, does the zoning change have to be consistent with the land use map, the housing element, the economic development element, or every word of every section of the plan. Because plans are supposed to be visionary, rather than regulatory, in nature, this could present tremendous confusion.

5. **Consistency with subdivision law** – Under current subdivision law (ch. 236), approval of plats must be conditioned upon, among other things, “compliance with” a comprehensive plan. “Compliance with” is possibly a different legal standard than “consistent with” and could result in confusion. Moreover, because zoning and subdivision ordinances are the regulations that must be consistent with a comprehensive plan (see above) under the comprehensive planning law, references to the comprehensive plan should be deleted to avoid confusion.

Unless the legislature addresses these issues in the near future, they will be addressed by our courts through expensive and time-consuming litigation. Once these issues are decided by our courts, it will be more difficult for stakeholders to agree upon solutions given that some of the groups will have a vested interest in maintaining the status quo.

Again, we respectfully request that you not advance AB 243 without addressing the other key issues related to the implementation of Wisconsin's Comprehensive Planning Law.

If you have questions, please feel free to contact us at (608) 241-2047.